IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.195 OF 2003

Shri Balkrishna Bapu Sawant .. Appellant

versus

Ranjana w/o Shankar Sawant & Ors.. Respondents

Shri Ashok J. Chougule for appellant

Shri J.P.Kharge for respondents

CORAM : P.V.KAKADE,J.

DATE : 25TH NOVEMBER, 2004

P.C.:

1. This is an appeal preferred by the original defendant no.1 against the judgement and order passed by Ad-hoc Addl. Dist. Judge, Sangli dated 29.6.2002 confirming the order of the lower court passed in Civil Suit No.406 of 1988 dated 7.12.1991 decreeing the plaintiff’s suit holding that the plaintiff are entitled to partition and separate possession of their 1/2 share

in suit property.

2. I heard the learned counsel for both sides. Perused the record including the deposition of appellant defendant no.1, who has come with case that the Suit property which is purchased by him by Registered Sale Deed in the year 1983. However, both the courts below have held that the alleged Sale Deed though registered is not duly proved by the appellant-defendant no.1 nor any attesting witness was examined in support of the said document. The Defendant no.1 in his evidence has also not even mentioned the details of the Sale Deed leave aside the proof regarding the contents thereof. The cross examination of the defendant no.1 also shows that the factum of existence of the valid Sale Deed and consequent transaction is challenged by the other side and on the basis of this aspect both the courts below have come to the conclusion that the appellant-defendant no.1 failed to prove the factum of Sale Deed in his favour and thereby allowed transfer of their Share by deceased sharers in favour of Defendant no.1 was not established. This is only the crux of the matter. There is no substantial question of law involved in this appeal. In the result the appeal stands dismissed in

limine. Consequently the civil application also stands dismissed with no order as to costs.